Supreme Court, U.S.
FILED

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No. _____

In the
SUPREME COURT OF THE UNITED STATES

October Term, 2008

In re SUSAN V. KLAT, *Petitioner,*

vs.

UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT, *Respondent,*

MITCHELL REPAIR INFORMATION COMPANY,
LLC AND SNAP-ON INCORPORATED,

Real Party[s] of Interest.

ON PETITION FOR EXTRAORDINARY WRIT OF MANDAMUS TO THE UNITED STATES COURT OF APPEALS FOR THE NINTH CIRCUIT TO COMPEL COURT TO REINSTATE ORDER NECESSARY TO ALLOW PETITIONER TO PROCEED ON APPEAL

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Petitioner in Propria Persona

QUESTIONS PRESENTED FOR REVIEW

On October 16, 2008, while still employed by Snap-on Inc. and working as the primary receptionist and switchboard operator and with the consistent expectation the position perform duties equal in skill, effort, labor and responsibility as that of similar positions within the company but at a substantially lesser rate of pay, the petitioner filed a verified complaint against the company in district court for wage discrimination with the 7–page pleading specific to the inequity in pay with jurisdiction invoked under 28 U.S.C. Section 206 (d) and The Equal Pay Act.

Following a 6–month series of rulings defending differences in the use of a deposition and whether the proceeding could be used as a way to threaten and or recruit information known to the corporation through terms of employment as in this case, the complaint was dismissed by the court and with knowledge the magistrate recommendations could not be adopted or utilizing pursuant to 28 U.S.C. Section 454 provisions which prohibit a judge from maintaining or being in possession of an active license to practice law.

On July 31, 2009, in response to the notice of appeal filed on July 15, 2009, the court of appeal **ordered** the appellant to Show Cause rather than brief the material and without the court first accessing the record or information necessary to the review citing 9th Circuit Rule 3.6(b) as the authority allocated to summarily dispense with the appeal before the matter could be briefed for review. ***Question presented***

1. Can a court of appeal ***sua sponte*** review a case timely scheduled/docketed for appellate review in the absence of a lower court record and/or forerunner brief presentation necessary to the merits prompting the review by issuing an order to show cause to elude summoning essential material relevant to the review?

LIST OF PARTIES

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Defendants/Appellees

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For Real Party[s] of Interest

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In the
SUPREME COURT OF THE UNITED STATES

October Term, 2008

In re SUSAN V. KLAT, *Petitioner,*

vs.

UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT, *Respondent,*

MITCHELL REPAIR INFORMATION COMPANY,
LLC and SNAP-ON INCORPORATED,
Real Party[s] of Interest.

ON PETITION FOR EXTRAORDINARY WRIT OF MANDAMUS TO THE UNITED STATES COURT OF APPEALS FOR THE NINTH CIRCUIT

This is a Petition for Mandamus and/or Writ of Prohibition brought by Susan V. Klat, *pro se*, with the petitioner previously known to this Court through proceedings introduced in 1996 by way of petition for writ of certiorari following a premature processing of a notice of appeal back then initiated by the same two lower courts now attempting to exclude the plaintiff from accessing review of a disposition ruling correctly before the court of appeals, which involves a wage discrimination dispute between the plaintiff and her now former employer, Snap-on Incorporated, with the claim brought in the United States District Court for the Southern of California under 28 U.S.C. § 206 (d) and The Equal Pay Act.

ORDERS ISSUED BELOW

The Order relevant to this proceeding (which is distinct and separate from the merits and reasons applicable should it later become necessary to seek further review) was issued by the clerk of the court on behalf of the United States Court of Appeals for the Ninth Circuit on July 31, 2009 (App., *infra*, 1a). The Timing Schedule Order related to the appeal and to this petition in which the petitioner seeks to be reinstated to address the material relevant to the district court ruling under review was also issued by the clerk on behalf of the court of appeals on July 16, 2009 (App., *infra*, 4a – 5a).

JURISDICTION

The jurisdiction of this Court to issue a writ in aid of compelling the court of appeals to reinstate the July 16, 2009 initiating timing schedule order necessary to the briefing and lodgment of the district court record accompanying the lower court decision and judgment entered on July 14, 2009 is predicated upon Title 28 U.S. Code §1651 (a).

In accordance with the judgment entered in this case on July 14, 2009 (App., *infra*, 7a), followed by the notice of appeal filed on July 15, 2009 (App., *infra*, 6a), jurisdiction of the court of appeals is timely invoked pursuant to rule 3 of Federal Rules of Appellate Procedure and Title 28 U.S. Code § 1291.

STATUTORY PROVISIONS INVOLVED

Title 28 U.S. Code §1651(a) recites "The Supreme Court and all courts established by Act of Congress may issue all writs necessary or appropriate in aid of their respective jurisdictions and agreeable to the usages and principles of law."

Section (b) of this code confers "An alternative writ or rule nisi may be issued by a justice or judge of a court which has jurisdiction."

The Ninth Circuit Rule 3–6 (summary disposition on civil appeals) originating and unique to the ninth circuit court of appeals states, in relevant part, "At any time **prior** to the completion of briefing in a civil appeal if the court determines...: (b) that it is manifest that the questions on which the decision in the appeal depends are so insubstantial as not to justify further proceedings the Court may, after affording the parties an opportunity to show case, issue an order dismissing the appeal without notice or further proceedings." *(Eff. 07/1995)*

Supreme Court Rule 20(1) (procedure on a petition for an extraordinary writ) conveys, in relevant part, "Issuance by the Court of an extraordinary writ authorized by 28 U.S.C. § 1651(a) is not a matter of right, but of discretion sparingly exercised. To justify the granting of any such writ, the petition must show that the writ will be in aid of the Court's appellate jurisdiction; that exceptional circumstances warrant the exercise of the Court's discretionary powers, and that adequate relief cannot be obtained in any other form or from any other court.

Pursuant to Title 28 U.S. Code Section 454 provision requirement herein referenced in this petition to convey relevance to the material underlying the district court ruling which affects the case disposition and acceptance of the practice in question and in mention before the court of appeals dictates, "Any justice or judge appointed under the authority of the United States who engages in the practice of law is guilty of a high misdemeanor."

STATEMENT OF CASE

A. Events Preceding Access to Appeal.

On October 16, 2008, while still employed at Mitchell Repair Information Company, LLC (a subsidiary owned by Snap-on Incorporated) the petitioner, Susan Klat, then working for 8 years as the San Diego company's front desk receptionist and switchboard operator and for a 2008/2009 rate of pay of $11.65/hour and with the consistent expectation the position perform duties equal in skill, effort, labor and responsibility as that of similarly situated positions within the location but for a substantially lesser of rate of pay, filed a verified complaint against the corporation for the practice of wage discrimination (with the 7 page claim specific to the disparity in pay in relation to duties performed) with federal jurisdiction invoked under Title 28 U.S. Code Section 206(d) and The Equal Pay Act. [1]

On December 29, 2008, following necessity to serve the defendants' twice due to the noncompliance with return of the waiver of summons paperwork in accordance with rule 4 of the Federal Rules of Civil Procedure cost reduction act, the corporation filed

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[1] On August 30, 2008 plaintiff filed a complaint with the California Department of Labor Relations with material contents forwarded to the U.S. Equal Employment Opportunity Commission reporting various employment violations with explicit documentation attached, which included the wage inequity/discrimination complained with neither agency wanting to take action prompting the lawsuit to be filed in accordance with guided timelines to act.

a verified answer expressing a generalized denial in response to the wage inequities distribution complained, adding to the complaint the aspect of fraud by reciting (through a verified return) that the plaintiff was **NOT** an employee of Snap-on Incorporated (despite the name on her bimonthly paystub and annual tax return) to sidestep the corporation having to make a personal appearance at the early natural evaluation hearing calendared on December 30, 2008 upon electronic docketing of the defendants' reply, with the proceeding scheduled for hearing on February 12, 2009.

On January 27, 2009, in accordance with the December 30, 2008 court directive conveying "if any questions please contact the clerk for the judge assigned," the petitioner forwarded correspondence to the appointed magistrate's docketing clerk to inquire into Snap-on's presence at the forthcoming hearing given the "she doesn't belong to us" affirmative response; and on February 02, 2009 the contents were returned and with the plaintiff admonished for the voiced concern, and with Snap-on later excused and without mention from the court as to why the corporation was allowed to violate the mandatory order to appear as originally prescribed.

On March 19, 2009, pursuant to court initiated deadlines, plaintiff served a written notice requesting wage–claim related discovery material encasing pertinent non–confidential employee salary records with specific names, company job descriptions of similar positions exclusive to the inequity in wage in relation to duties in addition to the demand for production of business telephone logs reflecting daily call volumes passed to the operator in relation to other the departments described; and all of which

directly illustrate the petitioner's effort, skill, labor, and responsibility in association to other company positions in question thereby validating the earnings disparity complained; and on March 23, 2009 defendants' written response was returned with counsel citing more time needed to meet the relevant entries request per corporation to counsel conveyed response.

On April 02, 2009, pending corporation compliance with the previous court order regulating party cooperation with discovery exchange, a case management conference was telephonic conducted with trial dates "symbolically" assigned (and with no customary digital recording created or subsequent order reflecting the hearing's objections voiced); and on April 13, 2009 the plaintiff appealed the order by objection with the pleading forwarded to the district court judge pursuant to Federal Rules of Civil Procedure 72(a) (10–day rule guideline) to preserve proper documentation in the likelihood of a later needed record supporting an appeal.

On April 09, 2009, following the conference hearing but before the plaintiff's objections could be formally recognized, petitioner was served by U.S. mail with a notice of the corporation's intent to depose the plaintiff for the supposed purpose of securing wage related/job performance information already known to the defendants' by virtue of conditions of employment advanced; with the deposition scheduled in closed chambers of the district courthouse (and for 7 hours prompting an inquiry into the reasons and time needed in addition to the location assigned) and with the provision the proceeding be conducted under the supervision of the acting magistrate (despite corporate headquarters

having the means to house and conduct the proceeding at any given time), with the event tentatively calendared for April 29, 2009.

On April 15, 2009, following the district court acceptance of the plaintiff objection initially withheld for "irregularities" not relevant to the application applied (objection stamped received on April 13, 2009 but not filed), defendants contacted the plaintiff seeking a joint party stipulation protective order agreement to repress company wage inequities from being made public despite the information having already been well–advertised; and with knowledge the request sought would infringe on miscellaneous labor provisions created for employee protection originating under California State law.

On April 20, 2009 defendants' filed a response to the insufficient findings objection with separate documents forwarded to the petitioner conveying the corporation's refusal to produce previously solicited employment/wage related material guided under Rule 26 discovery exchange, citing company "belief" that business telephone activity logs and non-confidential employee salary records thought to be immaterial to the solely stated earnings inequities complained thereby nullifying any need for a deposition given the generalized acceptance "she doesn't work for Snap-on and nothing wage related applies" all–encompassing defense.

On April 22, 2009, and in part due to the defendants stanch refusal to relocate the deposition proceeding, agree to an nonthreatening impartial territory to meet, consideration and or use of alternative means or to submit to a reasonable pre-deposition outline, the plaintiff initiated a document stating numerous reasons for a nonappearance at the

deposition then calendared in chambers of the magistrate judge assigned; citing the district court's 1995 initiating events as the ultimate supporting grounds for the unyielding decline **and** with alternative suggestions proffered to the proceeding (including an F.B.I. invite), which both the magistrate judge and corporation refused to entertain referencing a reserved right to decide.

On April 28, 2009 the district court judge overruled all objections to the magistrate findings and without addressing the material supporting the reasons behind the plaintiff deposition decline, and with full knowledge of the district court's past related safety and intimidation tactic concerns devoid of a review for relocation of the deposition, consideration of written interrogatories and or benefits of a telephone or "other" alternative means as proffered in lieu of the decline, citing "defendants" preference as the foundation to endorse the sequestered harassment thereby leaving more questions to the unspoken agenda generating the unconditional judicial support being advertised.

On April 29, 2009 defendants filed an ex-parte application to compel plaintiff attendance at the requested location specific to the isolated courtroom of the acting magistrate judge assigned with an added request for sanctions due to counsel inconvenience complained with the court ordering a plaintiff response to be filed on or before May 06, 2009.

On May 06, 2009 plaintiff filed an opposition with attachments in response to the ex–parte application to compel attendance to the deposition advance (with the corporation retaliating some 4.5 hours after document lodgment with the district

court by terminating the plaintiff's position of employment claiming excessive utilization of company "resources" as the reason behind the immediate discharge) with the magistrate judge (within hours of the termination) granting the defendants' motion to compel attendance to the proceeding in demand; with the newly issued order again neglecting to reference the paperwork supporting the reasons for terms as stated for the deposition decline.

On May 08, 2009 the defendants' served the plaintiff by U.S. mail with a new notice of deposition now mandating an 8–hour appearance (which violates the current 7–hour provision allowed under California State law) with the proceeding to be conducted in an office situated some four floors below the Equal Employment Opportunity Commission (where the initiating complaint for equal pay was submitted before filing the lawsuit on October 16, 2008) with an email rejection sent by the plaintiff to the 48–hour notice to appear due to the lack of time needed to appropriately respond.

On May 11, 2009 the petitioner filed an objection to the magistrate order granting the defendants' application to compel attendance to the then rescheduled May 13, 2009 event (with the pleading deferred docketing until May 13, 2009 and only after learning of the plaintiff's rejected attempt at filing an emergency motion using 9th Cir Rule 27–3 while visiting in San Francisco and stopping by the courthouse {with the document created to dissuade future intimidation tactics ···· and no it was not anticipated the document would be accepted due to jurisdiction specifics not yet invoked}) prompting the

district court to order a defendant response, with the opposition filed on May 19, 2009.

On May 20, 2009, in accordance with rule 26 of Federal Rules of Civil Procedure discovery/disclosure protocol, plaintiff filed an ex-parte application to compel defendant production of non-confidential employee wage related records and business activity logs (specific to the wage inequities and applicable to the complaint) with the defendants directed on May 21, 2009 to file an "opposition" on or by June 03, 2009, with the court later setting a telephonic conference hearing for this same day to forego having to make decision to the defendants response.

On May 27, 2009, the district court judge overruled the plaintiff's objections in favor of the deposition undertaking with request the magistrate judge forward a report and recommendations regarding sanctions to be imposed; and with the district court's full knowledge of Title 28 U.S. Code Section 454 provisions enacted and relevant to the acting magistrate judge, which prohibits an executing officer of the court from deciding a case while having in his/her possession an active license allowing them to practice as an attorney (even if not actively involved) since a ruling cannot fairly be distinguished as separate from a decision similar in nature to that of a lawyer practicing law.

On June 01, 2009 pending defendant response to the production of documents request, plaintiff initiated a provisional document entitled "Sole Terms of Settlement Offer with Regards to Case No. 08-cv-1907..." and forwarded the correspondence to defendants' counsel with full provisions for a one time settlement proffer clearly stated as advanced,

and on June 02, 2009 the offer was formally rejected by way of email response.

On June 03, 2009 a status hearing was conducted by telephone and again with no digital recording to the proceeding judicially transcribed; and on June 04, 2009 a report and recommendation was issued by the magistrate judge with the plaintiff objection filed in response on June 17, 2009 as directed by order of the court.

Following the June 3, 2009 telephonic hearing, but before issuance of the June 04, 2009 magistrate report and recommendation advocating the case be dismissed, defendants filed an objection to the plaintiff's May 20, 2009 ex–parte application to compel production of documents related to the wage discrimination complained; and in doing so, conveyed the documentation needed by the district court to comfortably dispense with the corporation's deposition demand given the federal forum's procedural considerations limiting the interview to claims and defenses on file.

On June 22, 2009 defendants filed a response to the plaintiff's June 17, 2009 opposition to the magistrate's report and recommendation findings; and on July 13, 2009 the district judge adopted the findings and report with judgment entered on the following day, July 14, 2009, and with the district court having full knowledge of the two complaints filed with the California State Bar (June/2009) and Ninth Circuit Court of Appeals (June/July 2009) in reference to Title 28 U.S. Code Section 454 violation having been reported; with the court completely innocent as to how the statute application applies.

B. Proceedings Following Entry of Judgment.

On July 15, 2009 the plaintiff filed a notice of appeal in the district court with reference made to appropriate orders and judgment relevant to the review applied; and on July 16, 2009 the court of appeals issued a customary timing schedule order denoting assignment of briefing dates with the lower court record to be lodged with the opening brief and at the scheduled time assigned to the review, with the transcript designation form returned on July 24, 2009 (App., *infra*, 6a, 4a – 5a).

On July 27, 2009 the civil docketing statement to the July 15, 2009 notice of appeal was filed in the court of appeals (App., *infra*, 2a – 3a); and on July 31, 2009, and seemingly (following inquiry) on the court's own initiative and in reference to the three questions accompanying the statement calendaring the notice of appeal, an order to show cause was issued in place of the original briefing schedule (with the opening brief and lower court record initially due on October 30, 2009, but now obsolete in lieu of the application applied) with authority relaying Ninth Circuit Rule 3.6(b) as the means to support the summarily disposition command; with the order reciting "**review of the record**" (not **not** yet in the issuing court's possession) as the reason for the execution and change in plans (App., *infra*, 1a).

REASONS FOR GRANTING THE PETITION

I. Authority Enacted to the Supreme Court; Issuance of an Extraordinary Writ.

The power of the Supreme Court to issue extraordinary writs is governed by the All Writs Act, which empowers this Court (at any time) to issue "all

writs necessary or appropriate in aid of [its] jurisdiction and agreeable to the usages and principles of law." (Title 28 U.S.C. § 1651) Moreover, in support of this stipulation and rare usage finding, it has been long established that the Supreme Court has the power to issue an extraordinary writ not only in aid of its jurisdiction over a case pending before the court, but also in aid of its potential jurisdiction over a case before a court over which it has direct appellant power, and even in aid of its potential jurisdiction pending over a court for which it lacks direct appellant power but may ultimately be able to review after a decision by an intermediate court. See Ex–parte Peru, 318 U.S. 578, 584–85 (1943) (In this instance, the Supreme Court held that it could issue a writ to federal district court, even though "direct appellate jurisdiction is vested in the circuit court of appeals," because of the Court's "ultimate discretionary jurisdiction by certiorari." *Id.* at 585.)

It has also been noted on occasion and when in need and in aid of later jurisdiction of the Supreme Court using Article III requirements, as applies in this case due to the Title 28 U.S. Code § 454 provision with practice throughout all 50 states requiring this Court to act due to the far reaching implications should knowledge of this judicial following be made public due to the neglect to recognize the importance and take some form of corrective action and or issue an appropriate stand, it has been long decided, "Appellate jurisdiction lies in the review of "an exercise of judicial power" *In re Sanborn*, 148 U.S. 222, 224 (1893), that is, of an act rendered in a "judicial capacity," *Pope v. United States*, 333 U.S. 1, 13 (1944), as opposed to an administrative or legislative act. *Postum Cereal Co.*

v. California Fig Nut Co., 272 U.S. 693 (1927); *Prentis v. Atlantic Coast Line Co.*, 211 U.S. 210 (1908). The object must be "review of the judicial decision of some inferior officer or court." Ex parte Hung Hang, 108 U.S. 552, 553 (1883).

II. Court of Appeals Order to Show Cause; In the Absence of a Referenced Record.

A. Standards for Summary Disposition.

The Ninth Circuit draws its authority for summary dispositions from application of Circuit Rule 3–6 which conveys that a summary affirmance is appropriate only where it is "manifest that the questions on which the decision of the appeal depends are so insubstantial as not to justify further proceedings." [Circuit Rule 3.6(b); United States v Hooton, supra 693 F2d (9th 1982) at 858 – district court's denial of appellant's motion for reduction of sentence summarily affirmed where "in-substantially of the appeal appeared on "the face of appellant's brief."

However, when reviewing the July 31, 2009 order issued by the ninth circuit to replace and override the initial July 16, 2009 timing schedule order designated for the review, which currently prevents the petitioner from accessing full benefit and use of the original record to support the argument and necessary to address the lower court decision by way of appellate review by reciting, "A **review of the record demonstrates that this appeal may be appropriate for summary disposition** because the questions on which this decision in the appeal depends may be so insubstantial as not to justify further proceedings. *See* 9th Cir. R. 3–6;" and with the knowledge the court has not yet accessed the

material herein referenced and in mention in the procuring of this command, while circumventing fundamental due process mandates in addition to knowingly preventing the petitioner from being allowed to access the courts to review the decision prompting the reasons behind the appeal.

B. Scope of Appeal; Determining the Issues.

Utilizing Rule 28(a)(9) of Federal Rules of Appellate Procedure to bring forth the material necessary to the court of appeals review the instructions recite, "An appellant brief must include, among other things, "[the party's] contentions and the reasons for them, with citations to the authorities and parts of the record on which the [party] relies." The failure to adequately brief an issue (as in this case which removes the district court record through usage of the 9th Circuit Rule 3.6(b)) it has been repeatedly conveyed the court of appeals "will not ordinarily consider matters on appeal that are not specifically and distinctly argued in appellant's opening brief" Miller v. Fairchild Indus, Inc., 797 F.2d 727, 738 (9th 1986).

The court goes on to recite that an issue may be deemed waived for failure to adequately brief on appeal making the disposition of the petitioner's appeal already decided, absent this Court's inherent power to intervene and reverse the out of bounds, prematurely decided outlook command. Accordingly, for this reason alone, the July 31, 2009 replacement order must be set aside and the original timing schedule order dated on July 16, 2009 reinstated to provide the appropriate avenue required to address the reason underlying the need to seek an appeal.

III. Title 28 U.S. Code Section 454; Important Question of First Impression Relevant to Reasons for the Appeal.

Review the petitioner's docketing statement and supporting paperwork forwarded to the ninth circuit to initiate the appeal (which includes two recent complaints filed against the district court, and before this order was issued, utilizing Title 28 U.S.C. § 454 provisions prohibiting an "acting" judge from being in the possession of an active license while performing duties consistent with practicing law) summarizes three question material to the briefing, which requires the district court record to be present (in full) in order to conduct the review.

Putting aside the first two clearly reviewable questions relevant to the appeal (i.e. a) whether the lower court's controlled usage of an appearance verses use of alternative means to conduct a deposition is supported by the written record... and, if so, whether this order appears to be an abuse of discretion... and b) whether the plaintiff was prejudiced through interactions with the judge), the concern of whether a magistrate judge findings can be adopted in lieu of Title 28 U.S. Code §454 provisions prohibiting a judicial officer from holding an active license to practice law while performing duties consistent with those of a practicing judge requires appellate review, and from a distancing Court other than that originally approached due to this statute infringement affecting every court in the United States employing a magistrate (or official in similar capacity) if in possession of a license while making a decision consistent with that of the practice of law. Hence, without this Court's direction to command the court of appeals to set aside the July

31, 2009 Order and reinstate the initial briefing schedule to allow the material to be reviewed an order to show cause to create a summarily disposition to dispense with the appeal is inappropriate and must be set aside.

CONCLUSION

For the reasons stated, the petitioner requests the petition for extraordinary writ of mandamus and/or prohibition be issued to the court of appeals for the ninth circuit directing the July 16, 2009 timing schedule be reinstated and all other orders set aside to enable the petitioner the right to proceed accordingly by way proper appeal.

Dated: August 15, 2009

Respectfully submitted,

s/
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Petitioner in Propria Persona

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Appendix A

UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT

SUSAN V. KLAT,

Plaintiff – Appellant,

v.

MITCHELL REPAIR INFORMATION COMPANY, LLC AND SNAP-ON INCORPORATED,

Defendants – Appellees.

No. 09-56103

D.C. No. 3:08-cv-01907-JM-CAB
Southern District of California, San Diego

ORDER
Filed July 31, 2009

A review of the record demonstrates that this appeal may be appropriate for summary disposition because the questions on which the decision in the appeal depends may be so insubstantial as not to justify further proceedings. *See* 9th Cir. R. 3-6. Within 21 days after the date of this order, appellant shall show cause why the judgment in this appeal should not be summarily affirmed. Appellees may file a reply to appellant's response within ten days from service of the response. Appellant's failure to comply with this order shall result in the automatic dismissal of this appeal by the Clerk for failure to prosecute. 9th Cir. R. 42-1

FOR THE COURT:

Molly C. Dwyer
Clerk of Court

By: Joe Williams
Deputy Clerk

Appendix B

UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT
CIVIL DOCKETING STATEMENT

SUSAN V. KLAT,	No. 09-56103
Plaintiff – Appellant,	D.C. No. 3:08-cv-01907-JM-CAB
v.	Southern District of California, San Diego
MITCHELL REPAIR INFORMATION COMPANY, LLC AND SNAP-ON INCORPORATED,	Filed: July 27, 2009
Defendants – Appellees.	

Briefly Describe Nature of Action and Result Below:

This a civil action in which the plaintiff alleges wage discrimination employed by a well-established corporation known to be in violation of wage provisions regulated under the Equal Pay Act with the case dismissed on the trial court's steadfast assumption that a defendant has an unconditional standing in the federal forum to conduct deposition proceedings for the purposes of harassment, intimidation and for recruitment of information already known to the party proceeding the advance.

Principal Issues Proposed to be Raised on Appeal:

1. Whether the lower court's controlled usage and Order mandating appearance verses use of alternative means to conduct the deposition is supported by the

written record and initiating defense: and, if so, whether this order to "appear" is an abuse of Fed. R. Civil P. Rule 30 provisions and corresponding state law. 2. Whether all inclusive pretrial orders instituted prejudiced the plaintiff position to receive fair review. 3. Whether the magistrate findings can be adopted pursuant to Title 28 U.S.C. § 454 provisions prohibiting a judicial officer from holding an active license with the California State Bar from rendering an opinion consistent with practicing law.

Please Indentify any other Legal Proceeding that may have a Bearing on this Case (Including Pending District Court Post-Judgment Motions):

There is currently a complaint filed with the Equal Employment Opportunity Commission and California Division of Labor Standards for retaliation taken against the plaintiff on May 06, 209 in response to paperwork filed in this lawsuit with pending litigation forthcoming upon the expiration of the 90-day period or right to sue release plus possible litigation against the court/judge named should no corrective action be addressed in response to 28 U.S.C. 454 complaint filed on 7/21/2009. (Complaint filed with tribal council responsible for overseeing judicial conduct in the Ninth Circuit Court of Appeals.).

Does this Appeal Involve Any of the Following:
Likelihood of Motion to Expedite to expedite or to stay the appeal, or other procedural matters (Specify)

Will be seeking motion to include privately recorded hearing transcripts from 6/03/2009 following certified transcription.

Certification of Counsel

s/ Susan V. Klat

Dated: 7/24/2009

Appendix C

UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT

SUSAN V. KLAT,	No. 09-56103
Plaintiff – Appellant,	D.C. No. 3:08-cv-01907-JM-CAB Southern District of California, San Diego
v.	
MITCHELL REPAIR INFORMATION COMPANY, LLC; SNAP-ON INCORPORATED,	**TIME SCHEDULE ORDER** **Filed July 16, 2009**
Defendants – Appellees.	

The parties shall meet the following time schedule:

Fri., Aug. 14, 2009	Appellant/petitioner shall file transcript order form with the district court and make payments arrangements with court reporter, pursuant to 9th Cir. R. 10-3.1;
Mon., Sep. 14, 2009	Court reporter shall file transcript in the district court, Pursuant to FRAP 11(b) and 9th Cir. R. 11-1.1;
Fri., Oct. 30, 2009	Appellant/petitioner's opening brief and excerpts of record shall be served and filed pursuant to FRAP 32 and 9th Cir. R. 32-1;

Mon., Nov. 30, 2009	The brief of appellee/ respondent shall be filed and served, pursuant to FRAP 32 and 9th Cir. R. 32-1

The optional appellant/petitioner reply brief shall be filed and served within fourteen days of service of the appellee/respondent's brief, pursuant to FRAP 32 and 9th Cir. R. 32-1.

Failure of the appellant to comply with the Time Schedule Order will result in automatic dismissal of the appeal. 9th Cir. R. 42-1

Appellants/Petitioners without representation of counsel in a prisoner appeal may have their case submitted on the briefs and record without oral argument, pursuant to FRAP 34(a). Within 10 days of the filing of the appellant's opening brief, parties may file a statement setting forth the reasons why, in the opinion of the parties, oral argument should be heard.

FOR THE COURT:
Molly C. Dwyer
Clerk of Court

Gerald Rosen
Deputy Clerk

Appendix D

Susan V. Klat
P.O. Box 1442
Poway, California 92074
Telephone # (760) 420-7218
Facsimile # (619) 440-5598

Plaintiff in Propria Persona

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF CALIFORNIA

SUSAN V. KLAT,	No. 09-56103
Plaintiff – Appellant, v.	D.C. No. 3:08-cv-01907-JM-CAB Southern District of California, San Diego
MITCHELL REPAIR INFORMATION COMPANY, LLC AND SNAP-ON INCORPORATED,	**NOTICE OF APPEAL**
Defendants – Appellees.	

NOTICE IS HEREBY GIVEN that Susan V. Klat, Appellant/Plaintiff named in the above entitled action, here by appeals to the United States Court of Appeals for the Ninth Circuit from the final decision and order rendered entitled "Order Adopting Report and Recommendations," dated July 13, 2009 (Doc 39) and contents of the referenced "Report and Recommendations" dated June 22, 2009 (Doc 36) and final Judgment entered in this proceeding on the 14th day of July, 2009.
No Transcripts requested as there was no trial.

Dated: July 15, 2009 s/
Susan V. Klat/Plaintiff

Appendix E

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA

SUSAN V. KLAT, Case No. 3:08-cv-01907-JM-CAB

v. **JUDGMENT IN A CIVIL CASE**

MITCHELL REPAIR
INFORMATION COMPANY,
LLC and SNAP-ON INC.

XX Decision by Court. This action came to trial or hearing before the Court. The issues have been tried or heard and a decision has been rendered.

IT IS ORDERED AND ADJUDGED that the court adopts the Report and Recommendation in its entirety. Accordingly, the action is hereby dismissed with prejudice .....

July 14, 2009
Date

W. Samuel Hamrick, Jr.
Clerk

S/ T. Lee
(By) Deputy Clerk
ENTERED ON July 14, 2009